

House File 2361 - Introduced

HOUSE FILE 2361

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 2114)

A BILL FOR

1 An Act relating to state preemption of firearms, firearm
2 accessories, and ammunition regulation by political
3 subdivisions, and including penalties and remedies and
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.28, Code 2011, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **724.28 State preemption — prohibition of firearms, firearm**
4 **accessories, and ammunition regulation by political subdivisions.**

5 1. The purpose of this section is to establish complete
6 state control over firearms, firearm accessories, and
7 ammunition regulation and policy in order to ensure that such
8 regulation and policy is applied uniformly throughout this
9 state to each person subject to the state's jurisdiction and to
10 ensure protection of the right to keep and bear arms recognized
11 by the Constitution of the United States. This section is to
12 be liberally construed to effectuate its purpose.

13 2. As used in this section:

14 *a. "Ammunition"* means fixed cartridge ammunition, shotgun
15 shells, the individual components of fixed cartridge ammunition
16 and shotgun shells, projectiles for muzzleloading firearms, and
17 any propellant used in firearms or in firearms ammunition.

18 *b. "Firearm"* means a pistol, revolver, rifle, shotgun,
19 machine gun, submachine gun, or black powder weapon which is
20 designed to, capable of, or may be readily converted to expel a
21 projectile by the action of an explosive.

22 *c. "Firearm accessory"* means a device specifically adapted
23 to enable the wearing or carrying about one's person, or the
24 storage or mounting in or on a conveyance, of a firearm, or
25 an attachment or device specifically adapted to be inserted
26 into or affixed onto a firearm to enable, alter, or improve the
27 functioning or capabilities of the firearm.

28 *d. "Person adversely affected"* means a person who meets all
29 of the following criteria:

30 (1) Lawfully resides within the United States.

31 (2) Can legally possess a firearm under the laws of this
32 state.

33 (3) Either of the following:

34 (a) Would be subject to the ordinance, measure, enactment,
35 rule, resolution, motion, or policy at issue if the person were

1 present within the jurisdictional boundaries of the enacting
2 political subdivision, regardless of whether such person works
3 or resides in such political subdivision.

4 (b) Is a membership organization that includes as a member a
5 person described in subparagraphs (1) and (2) and subparagraph
6 division (a) of this subparagraph and that is dedicated in
7 whole or in part to protecting the rights of those persons
8 who possess, own, or use firearms for competitive, sporting,
9 defensive, or other lawful purposes.

10 e. "*Political subdivision*" means a county, city, township,
11 school district, or any other subunit of this state.

12 3. Except as otherwise provided in this section, the
13 regulation of all of the following is hereby declared to be the
14 exclusive domain of the state:

15 a. Firearms, firearm accessories, and ammunition.

16 b. The ownership, possession, use, discharge, carrying,
17 transportation, registration, transfer, and storage of
18 firearms, firearm accessories, and ammunition.

19 c. Commerce in and taxation of firearms, firearm
20 accessories, and ammunition.

21 d. Any other matter pertaining to firearms, firearm
22 accessories, and ammunition.

23 4. An ordinance, measure, enactment, rule, resolution,
24 motion, or policy adopted by a political subdivision, or an
25 official action taken by an employee or agent of a political
26 subdivision, including through any legislative, police power,
27 or proprietary capacity, in violation of this section is void.

28 5. This section shall not be construed to prevent any of the
29 following:

30 a. A duly organized law enforcement agency of a political
31 subdivision from adopting and enforcing rules pertaining to
32 firearms, firearm accessories, or ammunition issued to or used
33 by peace officers in the course of their official duties.

34 b. An employer from regulating or prohibiting an employee
35 from carrying or possessing firearms, firearm accessories, or

1 ammunition during and in the course of the employee's official
2 duties.

3 *c.* A court or administrative law judge from hearing and
4 resolving a case or controversy or issuing an opinion or order
5 on a matter within the court's or judge's jurisdiction.

6 *d.* The enactment or enforcement of a generally applicable
7 zoning or business ordinance that includes firearms businesses
8 along with other businesses, provided that an ordinance
9 designed or enforced to effectively restrict or prohibit the
10 sale, purchase, transfer, manufacture, or display of firearms,
11 firearm accessories, or ammunition otherwise lawful under the
12 laws of this state, which is in conflict with this section, is
13 void.

14 *e.* A political subdivision from adopting or enforcing rules
15 of operation and use for any shooting range owned or operated
16 by the political subdivision.

17 *f.* A political subdivision that sponsors or conducts any
18 firearm-related competition or educational or cultural program
19 from adopting rules for participation in or attendance at such
20 a program.

21 *g.* A governing board for a city hall, courthouse, or
22 public hospital from adopting and enforcing rules regulating
23 or prohibiting persons from carrying or possessing firearms,
24 firearm accessories, or ammunition in the buildings or on the
25 grounds of the city hall, courthouse, or public hospital. For
26 purposes of this paragraph, "*public hospital*" means the same as
27 defined in section 249J.3.

28 6. A political subdivision or employee or agent of a
29 political subdivision that violates the state's occupation of
30 the whole field of regulation of firearms, firearm accessories,
31 and ammunition, as declared in this section, by adopting or
32 enforcing an ordinance, measure, enactment, rule, resolution,
33 motion, or policy impacting such occupation of the field shall
34 be liable as provided in this section.

35 *a.* If a political subdivision violates this subsection,

1 the court shall declare the ordinance, measure, enactment,
2 rule, resolution, motion, or policy void and issue a permanent
3 injunction against the political subdivision prohibiting
4 enforcement of such ordinance, measure, enactment, rule,
5 resolution, motion, or policy. It is not a defense that the
6 political subdivision was acting in good faith or upon the
7 advice of counsel.

8 *b.* If the court determines that a violation of this
9 subsection was knowing and willful, the court shall assess
10 a civil penalty of up to five thousand dollars against the
11 elected or appointed local government official or employee or
12 agent of an administrative agency under whose jurisdiction the
13 violation occurred.

14 *c.* Except as required by applicable law, public funds shall
15 not be used to defend or reimburse a person found to have
16 knowingly and willfully violated this subsection.

17 *d.* A knowing and willful violation of a provision of this
18 subsection by a person acting in an official capacity for any
19 entity adopting or enforcing an ordinance, measure, enactment,
20 rule, resolution, motion, or policy prohibited under this
21 subsection shall be cause for termination or removal pursuant
22 to chapter 66.

23 7. A person adversely affected by an ordinance, measure,
24 enactment, rule, resolution, motion, or policy adopted or
25 enforced in violation of this section may file suit in the
26 appropriate court for declarative and injunctive relief and for
27 damages. A court shall award the prevailing plaintiff in any
28 such suit all of the following:

29 *a.* Reasonable attorney fees and costs.

30 *b.* The greater of actual damages or liquidated damages
31 equal to the amount of three times the attorney fees awarded
32 in paragraph "a".

33 Sec. 2. APPLICABILITY. This Act applies to any ordinance,
34 measure, enactment, rule, resolution, motion, or policy adopted
35 by a political subdivision of this state or to official actions

1 taken by an employee or agent of such political subdivision,
2 on or after the effective date of this Act. However, the
3 penalties and remedies prescribed under section 724.28,
4 subsection 6, as enacted in this Act shall first be imposed
5 ninety days after the effective date of this Act to provide
6 political subdivisions an opportunity to comply with the
7 provisions of this Act.

8 EXPLANATION

9 Current Code section 724.28 prohibits a political
10 subdivision of the state from enacting an ordinance
11 restricting the ownership, possession, legal transfer, lawful
12 transportation, registration, or licensing of firearms when the
13 ownership, possession, transfer, or transportation is otherwise
14 lawful under state law.

15 This bill strikes this Code section and provides that the
16 regulation of firearms, firearm accessories, and ammunition
17 is declared to be the exclusive domain of the state. The
18 bill provides that an ordinance, measure, enactment, rule,
19 resolution, motion, or policy of a political subdivision of
20 this state, or an official action of an employee or agent of
21 such political subdivision, including through any legislative,
22 police power, or proprietary capacity, in violation of the bill
23 is void.

24 The bill shall not be construed to prevent a law enforcement
25 agency of a political subdivision from adopting and enforcing
26 rules pertaining to firearms, firearm accessories, or
27 ammunition issued to or used by peace officers in the course
28 of their official duties; an employer from regulating or
29 prohibiting an employee from carrying or possessing firearms,
30 firearm accessories, or ammunition during and in the course
31 of the employee's official duties; a court or administrative
32 law judge from hearing and resolving a case or controversy
33 or issuing an opinion or order on a matter within the
34 court's or the judge's jurisdiction; enacting or enforcing
35 a generally applicable zoning or business ordinance that

1 includes firearms businesses along with other businesses,
2 provided that an ordinance which is designed or enforced to
3 effectively restrict or prohibit the sale, purchase, transfer,
4 manufacture, or display of firearms, firearm accessories, or
5 ammunition otherwise lawful under the laws of this state,
6 which is in conflict with the bill, is void; a political
7 subdivision from adopting or enforcing rules of operation and
8 use for a shooting range owned or operated by the political
9 subdivision; a political subdivision that sponsors or conducts
10 any firearm-related competition or educational or cultural
11 program from adopting rules of attendance for such a program;
12 and a governing board for a city hall, courthouse, or public
13 hospital from adopting and enforcing rules regulating or
14 prohibiting persons from carrying or possessing firearms,
15 firearm accessories, or ammunition in the buildings or on the
16 grounds of the city hall, courthouse, or hospital.

17 The bill provides that if a political subdivision violates
18 the bill, the court shall declare the ordinance, measure,
19 enactment, rule, resolution, motion, or policy void and issue
20 a permanent injunction against the political subdivision
21 prohibiting enforcement of such ordinance, measure, enactment,
22 rule, resolution, motion, or policy. It is not a defense that
23 the political subdivision was acting in good faith or upon the
24 advice of counsel. The court shall assess a civil penalty of
25 up to \$5,000 against the elected or appointed local government
26 official or employee or agent of an administrative agency
27 under whose jurisdiction the violation occurred if a violation
28 was knowing and willful. In addition, knowing and willful
29 violations by a person acting in an official capacity shall be
30 cause for termination or removal.

31 The bill provides that a person adversely affected by an
32 ordinance, measure, enactment, rule, resolution, motion, or
33 policy adopted or enforced in violation of the bill may file
34 suit in the appropriate court for declarative and injunctive
35 relief and for damages and may, if successful, be awarded

1 reasonable attorney fees and costs and the greater of actual
2 damages or liquidated damages equal to the amount of three
3 times the attorney fees awarded.

4 The bill applies to any ordinance, measure, enactment,
5 rule, resolution, motion, or policy adopted by a political
6 subdivision of this state or to official actions taken by any
7 employee or agent of such political subdivision, on or after
8 the effective date of the bill. The penalties and remedies of
9 the bill shall first be imposed 90 days after the effective
10 date of the bill.